

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT

RULE 2.0 - OPEN BURNING

(Adopted 01/89, Amended 3/1/04)

A. PURPOSE

- A.1 The purpose of this rule is to ensure open burning in the District is conducted in a manner that minimizes emissions and smoke and is managed consistent with state and federal law.

B. APPLICABILITY

- B.1 The provisions of this rule shall apply to any person or land manager conducting, allowing, or using any open burning for the purpose of disposal within Yuba and Sutter Counties.
- B.2 The provisions of this rule shall apply to any open burning including but not limited to:
- (a) agricultural burning
 - (b) non-agricultural burning such as land use conversion for non agricultural purposes, fire prevention/suppression training, and disposal of Russian Thistle (*Salsola kali* or "tumbleweed")
 - (c) disposal of infectious wastes, other than hospital wastes
 - (d) disposal of contraband
 - (e) residential burning
- B.3 The provisions of this rule shall not apply to open burning for the purposes of cooking food for human consumption or recreational fires providing that there are no prohibited materials as defined in Section E.13.

C. SEVERABILITY

- C.1 If any section, subsection, sentence, clause, phrase, or portion of this rule is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

D. EFFECTIVE DATE

- D.1 The provisions of this rule shall be effective on the date of adoption.

E. DEFINITIONS

- E.1 **Agricultural Burning** means:
- (a) open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

- (b) open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in subdivision (a).
- (c) open outdoor fires used in wildland vegetation management burning. Wildland vegetation management burning is the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral, trees, grass, or standing brush. Prescribed burning is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The planned application of fire may also include natural or accidental ignition.

- E.2 **Approved Ignition Devices** means an instrument or materials that will ignite open fires without the production of black smoke as approved by the Air Pollution Control Officer. This would include such items as liquid petroleum gas, butane, or diesel oil burners, flares, or other similar materials. This does not include waste products or fuels, tires, tar, tar paper, oil and other similar materials.
- E.3 **Burn Barrel** means a container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal.
- E.4 **District** means the Feather River Air Quality Management District having jurisdiction over Yuba and Sutter Counties.
- E.5 **Fire Protection Agency** means any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.
- E.6 **Incinerator** means any device constructed of nonflammable materials, including containers commonly known as burn barrels, for the purpose of burning therein trash, debris, and other flammable materials for volume reduction or destruction.
- E.7 **Land Manager** means any federal, state, local, or private entity or person that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.
- E.8 **No-Burn Day** means any day, or portion thereof, designated by the Air Pollution Control Officer, the California Air Resources Board, or, a local, state or federal fire protection agency having jurisdiction over the burn location, as a day, or portion thereof, during which no fires may be ignited or no material may be added to an approved existing fire except as authorized in Section I.11.b.
- E.9 **Non-Agricultural Burning**, as regulated under the California Health and Safety Code, means all open burning set pursuant to sections K and L of this rule including, but not limited to, fires set by a public officer or public entity, for commercial or residential property development, fires set at a solid waste disposal site, and for the disposal of Russian Thistle.

- E.10 **Open Burning** means combustion of any material of any type, outdoors in the open air, where the product of combustion is not directed through a flue.
- E.11 **Orchard or Citrus Grove Heaters** means any approved article, machine, or equipment, burning any approved type of fuel or material capable of emitting air contaminants, used for the purpose of giving protection to crops from frost damage under the provisions of section G.10.
- E.12 **Permissive Burn Day or Burn Day** means any day, or portion thereof, on which allowable burning is not prohibited by the District, the California Air Resources Board or any local, state or federal fire protection agency having jurisdiction over the proposed burn location and is authorized by the District in accordance with the Smoke Management Program for Agricultural and Prescribed Burning, as set forth in Title 17 of the California Code of Regulations.
- E.13 **Person** means any person, firm, association, organization, partnership, business trust, corporation, Limited Liability Company, company, state or local government agency, public district, or any officer or employee thereof, and the United States or its agencies, to the extent authorized by federal law.
- E.14 **Prohibited Materials** means any waste or manufactured material, including but not limited to petroleum products and petroleum wastes; construction and demolition wastes; lumber; tar paper; roofing material; wiring; flooring material; insulation; plywood; coated wire; putrescible wastes; tires; tar; wood waste; processed or treated wood products; metals; motor vehicle bodies or parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; Styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; equipment; appliances; furniture; instruments; utensils; mattresses; shoes; cloth; rags; paper and paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of any dead animal; manure; human or animal parts or wastes, including blood and fecal matter or food contaminated material; or any other non-vegetative material that when burned may discharge air contaminants that may cause a health risk to any person.
- E.15 **Pruning Only Burn Day** in accordance with the Sacramento Valley Smoke Management Program means any day, or portion thereof, designated by the California Air Resources Board or the District as a day, or portion thereof, during which small fires for the purpose of disposing orchard prunings may be ignited.
- E.16 **Range Improvement Burning** means the use of open fires to remove vegetation for wildlife, game or livestock habitat, or for the initial establishment of an agricultural practice on previously uncultivated land.
- E.17 **Residential** means of or pertaining to dwellings occupied by one or two families.
- E.18 **Restricted field days** in accordance with the Sacramento Valley Smoke Management Program means any day, or portion thereof, designated by the California Air Resources Board or the District, as a day, or portion thereof, during which small

amounts of ditches, field stubble or spot burning will be permitted if such burning will not adversely affect downwind air quality.

- E.19 **Smoke Management Burn Plan** means an operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The document shall be prepared for each fire by land managers to provide information and procedures required by the District, in accordance with the Sacramento Valley Smoke Management Program, to minimize smoke impacts of the proposed burn project.
- E.20 **Wildland** means any area where development is generally limited to roads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the United States Department of Agriculture (USDA) Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.
- (a) For CDF territory only, Wildland as specified in California Public Resources Code (PRC) section 4464(a) means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1, Part 2 of Division 4 and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage.
 - (b) Wildland also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.
- E.21 **Wildland Vegetation Management Burning** is the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral, trees, grass, or standing brush.

F. **GENERAL PROHIBITIONS**

- F.1 Except as provided in these Rules and Regulations, no person or land manager shall conduct, allow, or use open fires for the purpose of disposal of any waste or other material.
- F.2 In accordance with Health & Safety Code section 41700, no person shall discharge from any source air contaminants which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public, or which cause, or have a tendency to cause injury or damage to business or property.
- (a) This section shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.
- F.3 Any open burning that is in violation of these Rules and Regulations is subject to being put out by any fire control agency when so ordered by the Air Pollution Control

Officer. The cost of putting out the fire may be charged to the person, persons, business, firm or corporation responsible for the fire.

- (a) This provision is in addition to any other penalties that are authorized by Section 42400 through 42404 of the California Health and Safety Code and provisions of these Rules and Regulations.

G. EXEMPTIONS:

Nothing in these rules shall be construed to prohibit:

- G.1 **Agricultural Burning:** Burning for the disposal of agricultural waste authorized pursuant to Section J "Agricultural Burning".
- G.2 **Public Officer:** Burning operations conducted by or permitted by any public officer authorized pursuant to section K.1 "Public Officer".
- G.3 **Industrial Training:** Burning operations on property used for industrial purposes for the purposes of instruction of employees in methods of fire fighting pursuant to Section K.2 "Industrial Site Fire Training".
- G.4 **Right-of-Way Clearing:** Burning by a public entity or utility for right-of-way clearing or other property access, or for levee, reservoir, ditch or drainage maintenance authorized pursuant to Section K.5 "Right of Way, Levee, Reservoir, and Ditch Clearing".
- G.5 **Residential Burning:** Burning for the disposal of vegetative material waste authorized pursuant to Section L "Residential Burning".
- G.6 **Backfires:** Burning operations conducted following Section 4426 of the Public Resources Code as backfires necessary to save life or valuable property.
- G.7 **Recreational:** Open outdoor fires used for cooking food for human consumption or for recreational purposes providing the fire does not contain prohibited materials as defined in section E.13 "Prohibited Materials".
- G.8 **Pesticide Application:** Open burning for the purposes of creating a smoke column during pesticide applications as required by section 6464 (a) of the California Code of Regulations.
 - (a) Section 41701 of the Health & Safety Code shall not apply to smoke generated for this purpose.
- G.9 **Animal Husbandry:** Fires used in heating branding irons as necessary in animal husbandry practices providing the fire does not contain prohibited materials as defined in section E.13 "Prohibited Materials".

- G.10 **Frost Protection for Orchards and Citrus Groves:** Heaters are authorized under California Health & Safety Code Section 41860 when used for preventing frost damage in orchards and citrus groves. The following applies to heaters in orchards and citrus groves to prevent frost damage.
- (a) No new orchard or citrus grove heater shall be sold for use against frost damage unless the California Air Resources Board has approved it and finds it produces no more than 1 gram per minute of unconsumed solid carbonaceous material.
 - (b) No person shall use any orchard or citrus grove heater unless the California Air Resources Board has approved it.
 - (c) Open fires in orchards or citrus groves for the purposes of frost protection are prohibited.
 - (d) The use of rubber tires or any rubber products in any combustion process in connection with any orchard or citrus grove heating is prohibited.

H. OPEN BURNING PERMITS

- H.1 **Permit Required:** No person shall ignite any open fire, conduct, perform or participate in any open burning activity, or allow the open burning activity on any property under the person's possession without first obtaining a valid burn permit issued by the Air Pollution Control Officer (APCO) and follows the conditions specified on the permit and these rules and regulations.
- (a) Each applicant for a burn permit shall provide such information as is required by the District or the designated fire protection agency for fire protection purposes.
 - (b) Fees for permitting shall be recovered in accordance with District Regulation VII.
- H.2 **Exemptions to Permit Requirements.** The following are exempt from a District permit until proper public notice to remove the exemption is filed. Other permitting requirements from the fire protection services may be required.
- (a) The open burning of paper agricultural pesticide sacks, provided the burning is conducted at the site of application, in accordance with proper disposal guidelines specified on the packaging and downwind from any person or susceptible crops.
 - (b) Open outdoor fires used for cooking food for human consumption or for recreational purposes.
 - (c) Open burning of vegetation at one- or two-family residences on parcels less than two acres in size, provided that the requirements of section L "Residential Burning" and the requirements of fire protection services are both met.

I. GENERAL BURN REQUIREMENTS, CONDITIONS AND PRACTICES

- I.1 **Compliance:** No person shall ignite any open fire, conduct, perform or participate in any open burning activity, or, allow the open burning activity on any property under the person or land manager's responsibility, in violation of any State law, Statute,

District Rule or Regulation, or burn permit issued by the APCO pursuant to these Rules and Regulations. Any open burning which is not in full and complete compliance with the provisions of these Rules and Regulations is in violation of these Rules and Regulations.

- I.2 **Fire Control:** All fires shall be reasonably controlled and contained so that the fire does not escape.
- I.3 **Suspension of Burning Privilege:** The APCO may suspend all burn privileges for any person or location for any violation of this rule.
- I.4 **Fire Protection Agencies:** Local fire-protection agencies may have additional burning requirements for fire safety. Nothing in these regulations shall be construed as limiting the power of the fire protection agencies from requiring or enforcing stricter standards.
- I.5 **Ignition Devices:** All open fires shall be ignited with an approved ignition device.
- I.6 **Smoke Minimization:** All vegetative wastes to be burned shall be reasonably free of dirt, soil, visible surface moisture and moisture content to minimize smoke.
 - (a) To lower the moisture content of vegetative waste, the elapsed time between cutting, felling or uprooting and ignition or burning shall be:
 - (1) Forty-five (45) days for trees and large branches 6" in diameter or greater.
 - (2) Thirty (30) days for prunings and small branches 3" to less than 6" diameter.
 - (3) Fifteen (15) days for fine prunings 0" to less than 3" diameter.
 - (b) All burnable waste shall be arranged so that it will ignite as rapidly as practicable within applicable fire control restrictions and burn with a minimum amount of smoke.
 - (c) Tree stumps shall not be burned in place.
- I.7 **Prohibited Materials:** All open fires shall be free of prohibited materials as specified in section E.13 "Prohibited Materials".
- I.8 **Designated Burn Hours:** Only that amount of waste that can reasonably be expected to completely burn within the burn hours shall be ignited on any one (1) day.
 - (a) Dry trees, uprooted stumps and branches greater than six (6) inches in diameter may be ignited even though they cannot reasonably be expected to completely burn within the burn hours after approval from the APCO.
- I.9 **Wind Direction:** Burning shall not be ignited when the wind direction is such that smoke from the burning of such waste would be blown or carried into a nearby-populated area and could create a public nuisance.

- I.10 **Burning of Vines or Bushes Treated with Herbicides:** Vines or bushes may be burned in place without being cut or uprooted if they are treated and desiccated with herbicides and allowed to dry completely prior to ignition or burning.
- I.11 **Transportation of Burnable Materials:** All vegetative material to be burned pursuant to this rule shall be burned on the property where the material was grown. No material may be transported to another location to be burned.

J. **AGRICULTURAL BURNING**

- J.1 **Burn Hours:** A person shall not commence any open burning before or after the burn hours.
- (a) The ARB is authorized to restrict or relax the burn hours due to air quality factors. Any restricted hours are enforceable for the day they are in effect.
 - (b) For orchard prunings, burn hours are between 9:00 a.m. and 4:00 p.m.
 - (c) Between March 1 and August 31, for all field crops, including rice, ditchbanks, weeds, and levees, burn hours are between 10:00 a.m. and 4:00 p.m. All fires shall be completely out by 5:00 p.m.
 - (d) Between September 1 and February 28/29, for all field crops, including rice, ditchbanks, weeds, and levees burn hours are between 10:00 a.m. and 3:00 p.m. All fires shall be completely out by 4:00 p.m.
- J.2 **Burn Acres:** no fire shall be lit that may cause an exceedance of the Districts Daily Burn allocation as specified in the Sacramento Valley Air Basin Smoke Management Program.
- J.3 **Prohibited Materials:** Agricultural open fires shall be free of prohibited materials as specified in Section E.13, "Prohibited Materials".
- J.4 **Field Crop Burn Limitation:** No crop acreage which was harvested prior to September 10 shall be burned during the period October 1 through November 15 of each year unless written authority is given by the District.
- J.5 **Permit Invalidation on No-Burn Days:** A burning permit shall not be valid on a No-Burn Day and a person shall not set or permit burning on a No-Burn Day.
- (a) If a permissible burn day is subsequently changed to a No-Burn day, any previously approved fire ignited during the permissible portion of the day may continue to burn providing that no additional material is added.
 - (b) Notwithstanding any other provision of this Regulation, the APCO may authorize burning on days designated by the State Air Resources Board as No-Burn Days when denial of such authorization would threaten imminent and substantial economic loss or would cause a public health hazard.
 - (1) The APCO may only authorize such burning when downwind metropolitan areas are forecast by the District to achieve the ambient air quality standards and/or a fire agency has not declared a no-burn day due to safety issues.

- (2) The District shall limit the amount of acreage that can be burned on any one no-burn day in any one county to 200 acres.
- (3) Within fifteen (15) days of the granting of an exemption, the applicant shall return a signed statement that provides the reasons why denial would have caused imminent and substantial economic loss or a public health hazard.
- (4) Any APCO authorization does not exempt the responsible party from any other District or fire control regulation.

J.6 **Rice Straw Burning:** In addition to the general agricultural burning requirements of this rule, rice straw burning shall be performed in compliance with the Smoke Management Program and all of the following:

- (a) All rice harvesters shall employ a mechanical straw spreader to insure even distribution of the straw. Rice straw may be left in rows providing it meets the following drying time criteria. Drying times are timed after harvest.
 - (1) Rice straw may be burned prior to the drying period specified if the straw passes the crackle test described in J.5 (b) "Crackle Test", prior to burning.
 - (2) For spread rice straw - three (3) day drying time.
 - (3) For rowed rice straw - ten (10) day drying time.
 - (4) For rice straw harvested with the "stripper header" - three (3) days after the first frost found on the field; or three (3) days after mowing and spreading or chopping straw.
 - (5) After a rain exceeding .15 inch (fifteen hundredths of an inch), rice straw shall not be burned unless the straw passes the crackle test.
- (b) When testing the straw for moisture, the person responsible for the fire or his agent shall test a composite sample in accordance with the Sacramento Valley Air Basin Smoke Management Program.
- (c) Rice stubble is to be ignited only by strip firing into the wind or by backfiring except where and when extreme fire hazards are declared to exist by the appropriate fire control agency.
 - (1) The APCO may authorize other lighting techniques if safety reasons exist or if the crop does not lend itself to the approved techniques.

J.7 **Wildland Vegetation and Forest Management Burning**

- (a) Wildland vegetation and forest management burning shall conform to the Sacramento Valley Air Basin Smoke Management Program, the rules and regulations of the District and the following requirements:
 - (1) Any proposed burn, regardless of size, which will occur below a mean elevation of 1000 feet above sea level shall complete and submit a Smoke Management Plan on forms provided by the District at least seven (7) days prior to ignition.
 - (2) Any proposed burn which encompasses a land area greater than ten (10.0) acres and which occurs at or above a mean elevation of 1000 feet shall complete and submit a Smoke Management Plan on forms provided by the District at least seven (7) days prior to ignition.
- (b) No burning shall be ignited without District approval.

- (1) The initial “go/no-go” decision to manage a naturally ignited fire for resource benefit shall be made in accordance with the Sacramento Valley Air Basin Smoke Management Program.

J.8 **Air Resources Board Advance Permissive-Burn Forecast:** Upon request from a permittee through the District, seven (7) days in advance of a specific range improvement burn, forest management burn, or wild land vegetation management burn, a permissive-burn or no-burn forecast will be issued by the state board up to 48 hours prior to the date of the scheduled burn. Without further request, a daily forecast will continue to be issued until a permissive-burn forecast is issued.

- (a) A permissive-burn or no-burn advisory outlook will be available up to 72 hours in advance of burns.

K. NON-AGRICULTURAL BURNING

K.1 **Public Officer:** Fires set or permitted by any public officer if such fire is set or permission given in the performance of the official duty of such officer, and such fire in the opinion of the officer is necessary for the purposes specified in the California Health and Safety Code:

- (a) For the purpose of the prevention of a fire hazard which cannot be abated by any other means.
- (b) For the instruction of public employees in the methods of fire fighting.
 - (1) Burning of any structure shall be conducted in accordance with NESHAP requirements and ARB guidelines. The structure to be burned shall be certified free of asbestos.
 - (2) A District permit is required for any field training burn greater than twenty (20) acres.
 - (3) The public officer shall notify the District 48 hours before any burn conducted for the purposes of training.
- (c) For the purpose of disease or pest control and prevention where there is an immediate need for and no reasonable alternative to burning, as determined by the APCO.
 - (1) Burning operations for disease or pest control shall notify the District in writing.

K.2 **Industrial Site Fire Training:** Permits are required for industrial site employee instruction in fire fighting methods.

- (a) Materials to be burned shall be certified free of asbestos. Laboratory results of the asbestos testing shall be submitted to the APCO at least ten (10) days before burning.

K.3 **Land Clearing:** Open burning of natural vegetation on land being developed for industrial or commercial purposes shall be prohibited.

- (a) Burning is allowed and permits are required for land clearing on property being developed for a single family residence.
 - (1) All the requirements in Section I "General Burn Requirements, Conditions, and Practices" and the State Board approved criteria for

open burning under the Smoke Management Program shall apply to this provision.

- K.4 **Solid Waste Disposal:** Open burning at a solid waste disposal site shall be prohibited.
- K.5 **Right of Way, Levee, Reservoir, and Ditch Clearing:** Right of way, Levee, Reservoir, and Ditch Clearing conducted by a public entity or utility shall require a District permit in accordance with this regulation.
 - (a) The material shall be prepared by stacking, drying, or other methods to promote combustion.
- K.6 **Russian Thistle:** permits are required for the disposal of Russian Thistle pursuant to the California Health and Safety Code.
- K.7 **Multi-Unit Dwellings and Commercial Entities:** At multi-unit dwellings and commercial entities, burning for the purpose of fire hazard reduction when done for the purpose of compliance with local fire hazard reduction ordinances.
 - (a) Fire hazard reduction shall require a District permit in accordance with this regulation and approved criteria for open burning.
 - (1) All the requirements in Section I "General Burn Requirements, Conditions, and Practices" shall apply to this provision.

L. RESIDENTIAL BURNING

- L.1 **General Conditions:** All residential burning shall be subject to the requirements in section H "Open Burning Permits", section I "General Burn Requirements, Conditions, and Practices" and the following additional requirements.
- L.2 **Additional Requirements:**
 - (a) No person or land manager shall dispose of any material from any property by burning outdoors in a burn barrel or incinerator.
 - (b) Paper, cardboard, and all prohibited materials shall be prohibited from burning.
 - (c) All vegetation to be burned shall be generated from the property at which burning will occur. It is prohibited to burn imported vegetative materials.
 - (d) To minimize smoke impacts to nearby occupied dwellings; open fires shall not take place less than twenty-five (25) feet from any occupied dwelling.
 - (e) To minimize accidental ignition of prohibited materials; the open burn area shall have a minimum ten (10) foot clearance.
 - (f) A responsible adult shall attend the burn at all times.
 - (g) Any disposal of an unserviceable American Flag that is no longer fit for display must be conducted in a respectful and dignified manner in accordance with the CA Health & Safety Code section 41806(c).

- L.3 **Burn Days:** Residential burn days are Monday, Wednesday, and Saturday providing it is a permissible burn day as determined by the APCO in accordance with the Sacramento Valley Air Basin Smoke Management Program. All residential burners must call the burn information recorder after 9:00 a.m. before igniting any open fire to determine if it is a burn day.
- L.4 **Burn Hours:** Residential burn hours are between 9:00 a.m. and 4:00 p.m. No material can be added to the fire after 3:00 p.m. and the fire must be extinguished by 4:00 p.m.
- (a) Alternate burn hours may be set for State Responsibility Areas under the jurisdiction of the California Department of Forestry and the U.S. Forest Service.
 - (1) Residential Burners in these areas shall burn under a permit issued by the designated agency.
 - (2) Residential burners shall call the local fire-protection agency for seasonal and specific hour requirements.
- L.5 **Permitting:** The Air Pollution Control Officer is authorized to require air quality burn permits for residential burns.
- (a) Fees for permitting shall be recovered in accordance with District Regulation VII.
 - (b) Permitting requirements shall follow the conditions specified by the APCO.
 - (c) The APCO may determine that residential air quality burn permits are not required. This does not relieve the resident of the responsibility of obtaining any permit required and issued by a fire protection agency for fire safety.